



3. Plaintiffs' Original Petition alleges causes of action against AXIS for breach of contract, breach of the duty of good faith and fair dealing, and violations of Chapters 541 and 542 of the Texas Insurance Code.<sup>1</sup> The parties agreed to extend the deadline for AXIS to respond to Plaintiffs' Original Petition from April 1, 2019 to April 15, 2019.<sup>2</sup> AXIS filed its Verified Plea in Abatement, Original Answer, Verified Denials, and Affirmative Defenses on April 8, 2019.<sup>3</sup>

4. No further pleadings have been filed, and no proceedings have yet occurred in the Bexar County action. AXIS, therefore, timely files this Notice of Removal within the 30-day time period required by 28 U.S.C. § 1446(b).

5. Venue is proper in the United States District Court for the Western District of Texas, San Antonio Division under 28 U.S.C. §§ 124(d)(4) and 1441(a) because this district and division embrace the place in which the removed action has been pending.

## II. BASIS FOR REMOVAL JURISDICTION

6. Removal of this action is proper under 28 U.S.C. § 1441 because it is a civil action brought in a state court and the federal courts have original jurisdiction over the subject matter pursuant to 28 U.S.C. § 1332. Removal jurisdiction is determined on the basis of the claims in the state court pleading as it exists at the time of removal.<sup>4</sup>

7. Specifically, removal is proper because there is now, and was at the time this action was filed, complete diversity of citizenship between Plaintiffs and the sole Defendant, and the amount in controversy greatly exceeds \$75,000 excluding interest, costs and attorneys' fees.

<sup>1</sup> See Plaintiff's Original Petition, attached as **Exhibit B**.

<sup>2</sup> See Rule 11 Agreement, attached as **Exhibit D**.

<sup>3</sup> See Defendant's Original Answer, attached as **Exhibit C**.

<sup>4</sup> See *Cavallini v. State Farm Mutual*, 44 F.3d 256, 262 (5th Cir. 1995); *Castellanos v. Bridgestone Corp.*, 215 F.Supp.2d 862, 864 (S.D. Tex. July 22, 2012).

Plaintiffs' Original Petition alleges damages in excess of \$1,000,000.00.<sup>5</sup> Therefore, it is facially apparent that Plaintiffs' claim exceeds the amount required to support federal jurisdiction.

### III. DIVERSITY OF CITIZENSHIP EXISTS

8. Diversity of citizenship exists when a suit is between citizens of different states or citizens of a state and citizens of a foreign state. 18 U.S.C. § 1332(a)(1)-(2).

9. Both Plaintiffs Ironwood Building II, Ltd. and Principle Auto Management Ltd. are Texas limited liability partnerships that maintain their principal places of business in Bexar County, Texas.<sup>6</sup> Thus, both Plaintiffs are residents and citizens of Texas for purposes of diversity of citizenship.

10. Defendant AXIS is not alleged to be a citizen of Texas for purposes of diversity of citizenship.<sup>7</sup> AXIS is a foreign corporation with its principal place of business in Georgia.

11. Accordingly, there is now, and was at the time this action was filed, complete diversity between Plaintiffs and Defendant.

### IV. COMPLIANCE WITH 28 U.S.C. §1446

12. In accordance with 28 U.S.C. 1446(a), Underwriters file this Notice of Removal accompanied by the following exhibits:

- a. All executed process in the case, attached as **Exhibit A**.
- b. Plaintiffs' Original Petition, attached as **Exhibit B**.
- c. Original Answer of Defendant, attached as **Exhibit C**.
- d. Rule 11 Agreement filed in state action, attached as **Exhibit D**.

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<sup>5</sup> See **Exhibit B**, ¶ 5.

<sup>6</sup> See **Exhibit B** at ¶ 2.

<sup>7</sup> *Id.* at ¶ 3.

**V. JURY DEMAND**

13. Plaintiff demanded a jury trial in the state court action.

**VI. CONCLUSION**

14. AXIS will promptly file a copy of this Notice of Removal with the clerk of the state court where the action is pending.

15. Therefore, AXIS hereby provides notice that this action is duly removed.

Respectfully submitted,

**ZELLE LLP**

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**ATTORNEYS FOR DEFENDANT,  
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COMPANY**

**CERTIFICATE OF SERVICE**

This is to certify that a true and correct copy of the foregoing has been served on this 9th day of April, 2019, in accordance with the FEDERAL RULES OF CIVIL PROCEDURE upon all known counsel of record by electronic filing, addressed as follows:

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